

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DANNY MANZANARES,

Plaintiff,

vs.

No. CIV 05-00095 JP/LFG

**SEAN HIGDON, an Officer of the
Albuquerque Police Department,
Individually,**

Defendant.

OPPOSED MOTION TO VACATE SETTLEMENT CONFERENCE

COMES NOW Defendant Sean Higdon, by through his counsel of record, Kathryn Levy, Deputy City Attorney, and hereby requests this Court enter its order vacating the settlement conference set for May 28, 2010, and rescheduling it until a future date. As grounds in support of this motion, Defendant would show as follows:

1. On May 7 or 8, 2010, Plaintiff's counsel contacted the undersigned regarding the possibility of mediating the issue of attorneys fees. Defendant did not oppose the motion and Plaintiff filed his motion on May 10, 2010. [Doc. 184]

2. The Court entered its order granting the motion to mediate and set a settlement conference on May 28, 2010. [Doc. 185]

3. Counsel for Defendant did not realize the conference was set for the Friday before Memorial Day weekend until Friday, May 21, 2010. Counsel has had a long planned trip to Arizona for the holiday weekend, leaving in the afternoon of May 27, 2010.

4. Plaintiff's counsel was contacted and advised he *opposes* vacating the conference even though he advised he was seeking the undersigned's consent to have it moved to the afternoon as his co-counsel is unavailable in the morning.

5. The undersigned has been counsel in this matter for several years and is the most familiar with all of the pleadings, motions and trials, which information will be necessary for the parties to have a frank discussion about resolving the fees. Accordingly, this is not a matter where another attorney could attend the conference for Defendant's counsel, assuming, of course, that the Court would consent to such a substitution.

6. Counsel is hopeful the parties can resolve this matter at a settlement conference and appreciates the Court's scheduling it on an expedited basis. However, Defendant's counsel would very much like to take her planned long weekend and respectfully requests the Court vacate the present setting and reset it at the Court's convenience.

WHEREFORE, Defendant respectfully requests this Court vacate the settlement conference scheduled for May 28, 2010 and reschedule it at a future date.

Respectfully submitted,

CITY OF ALBUQUERQUE

Robert J. Perry

City Attorney

/s/ Kathryn Levy

Kathryn Levy

Attorney for Defendant

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(505) 768-4500

(505) 768-4440 (facsimile)

I HEREBY CERTIFY that on this 23rd day
of May, 2010, all counsel of record
were served via electronic filing.

/s/ Kathryn Levy
Kathryn Levy